

Guttilla Murphy Anderson, P.C.
Patrick M. Murphy (Ariz. No. 002964)
5415 E. High St., Suite 200
Phoenix, Arizona 85054
Email: pmurphy@gamlaw.com
Phone: (480) 304-8300
Fax: (480) 304-8301

Attorneys for the Receiver

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Federal Trade Commission,
Plaintiff,

vs.

ELH Consulting, LLC, *et al*,
Defendants.

Cause No. CV 2012-2246-PHX-FJM

CLOSING STATEMENT

Peter S. Davis, as the court appointed Receiver, as his closing statement, states as follows:

1. On October 22, 2012, this Court entered its *Ex Parte Temporary Restraining Order with Asset Freeze, Appointment of a Temporary Receiver, Immediate Access to Business Premises, Limited Expedited Discovery, and an Order to Show Cause why a Preliminary Injunction Should Not Issue* [Doc 10], which appointed Peter S. Davis as Receiver of ELH Consulting, LLC, Purchase Power Solutions, LLC, Allied Corporate Connection, LLC, Complete Financial Strategies, LLC, and their successors, assigns, affiliates, or subsidiaries. Subsequently the Court entered its *Stipulated Order Expanding Receivership Over Defendants 3Point14 Consultants, LLC and Key Tech Software Solutions, LLC* [Doc 69] which added 3Point14 Consultants, LLC, and Key Tech Software Solutions, LLC to the Receivership.

1 2. On June 23, 2014, the Receiver filed his *Petition No. 10, Petition for Order*
2 *Closing the Receivership* (Doc. 136) (“Petition No. 10”), which requested the Court’s
3 approval of the Receiver’s plan for terminating the receivership. Attached to Petition No.
4 10 as Exhibit “A” was a copy of the Receiver’s Final Report which included as Exhibit 4
5 an estimate of expenses to prepare and file the final tax returns and complete the
6 remaining steps for closing the receivership (“Final Report”).

7 3. On July 10, 2014, this Court entered its *Order Re: Petition No 10, Order*
8 *Closing Receivership* [Doc. 137], which approved the Receiver’s Final Report,
9 authorized the payment of final administrative expenses and the distribution of remaining
10 funds to the Federal Trade Commission, approved and authorized the filing of the final
11 tax returns, exonerated the Receiver and his employees, agents, attorneys and assistants,
12 authorized the storage and ultimate destruction of records, enjoined actions against the
13 Receiver and others and declared that the Receivership proceeding shall terminate upon
14 filing by the Receiver of a Closing Statement.

15 4. All final administrative expenses have been paid by the Receiver. Attached
16 as **Exhibit “A”** is an accounting of the final expenses incurred and paid by the Receiver.
17 As explained in Exhibit “A””, certain actual expenses were greater then estimated and
18 others were lower. For example, the actual pre-receivership payroll tax liability turned
19 out to be \$7,981.38 less than estimated in the Final report. On the other hand, the fees
20 incurred by the Receiver to wind up the receivership turned out to be \$9,300.50 greater
21 than the \$8,000 originally estimated. This was largely due to problems with the 2013 tax
22 returns prepared by outside tax accountants that had to be corrected by the Receiver.
23 Since there are not sufficient funds remaining to pay all of the remaining fees incurred by

1 the Receiver, the Receiver has written off all but \$7,953.21. With the payment of these
2 fees to closing, there are no remaining funds in the receivership estate.

3 5. The Receiver has previously paid to the Federal Trade Commission
4 \$754,869.37.

5 6. The Receiver has transferred to the Federal Trade Commission all records
6 requested by the Commission.


7 7. The Receiver has filed final tax returns for ELH Consulting, LLC, Purchase
8 Power Solutions, LLC, Allied Corporate Connection, LLC, Complete Financial
9 Strategies, LLC, 3Point14 Consultants, LLC, and Key Tech Software Solutions, LLC.

10 8. All funds have been distributed and this matter has been fully resolved
11 pursuant to the orders of this Court.

12 Accordingly, pursuant to *Order Re: Petition No 10, Order Closing Receivership*
13 [Doc. 137], this Receivership is deemed terminated without further proceeding or order
14 of the court upon filing of this Closing Statement.

15 Dated this 13th day of July, 2016.

16
17 PETER S. DAVIS, Receiver

18 
19 Peter S. Davis, Receiver

20 GUTTILLA MURPHY ANDERSON, P.C.

21 s/Patrick M. Murphy
22 Patrick M. Murphy
23 Attorneys for the Receiver

Guttilla Murphy Anderson, P.C.
5415 E. High Street, Suite 200
Phoenix, Arizona 85054
(480) 304-8300

PROOF OF MAILING

This is to certify that a true copy of the foregoing Closing Statement has been served by First Class Mail upon the persons on the Master Service List attached hereto, on this 13th day of July 2016.

s/Patrick M. Murphy
Patrick M. Murphy

1689-001(191862)

Guttilla Murphy Anderson, P.C.
5415 E. High Street, Suite 200
Phoenix, Arizona 85054
(480) 304-8300

MASTER SERVICE LIST

FTC v. ELH Consulting, LLC, et al

In the United States District Court for the District of Arizona

Phoenix

CV 2012-2246-PHX-FJM

(Rev. 2/26/13)

Honorable Frederick J. Martone
United States District Court
Sandra Day O'Connor U.S. Courthouse,
Suite 623
401 W. Washington Street, SPC 62
Phoenix, AZ

Peter S. Davis, Receiver
ELH Consulting Receivership
The Great American Tower
3200 North Central, Suite 2460
Phoenix, Arizona 85012

Ryan W. Anderson
Guttilla Murphy Anderson PC
5415 E. High Street, Suite 200
Phoenix, AZ 85054
RAnderson@gamlaw.com
Counsel for Receiver

Eleanor Durham
Federal Trade Commission
915 2nd Ave., Ste. 2896
Seattle, WA 98174
edurham@ftc.gov
Counsel for FTC

Laura M. Solis
Federal Trade Commission - Seattle, WA
915 2nd Ave., Ste. 2896
Seattle, WA 98174
lsolis@ftc.gov
Counsel for FTC
1689-001(133253)

David G. Bray
DICKINSON WRIGHT/MARISCAL
WEEKS
2901 North Central Avenue, Suite 200
Phoenix, Arizona 85012-2705
dbray@dickinsonwright.com
Firm Email for Court Documents:
courtdocs@dickinsonwright.com
Counsel for Defendants
ELH Consulting LLC,
Purchase Power Solutions LLC,
Allied Corporate Connection LLC,
Complete Financial Strategies LLC,
Emory L. Holley, IV, and
Lisa Miller

Hank T. Waters
Waters Law Office PLLC
1140 Kildaire Farm Rd., Ste. 108
Cary, North Carolina 27511\
hank@hankwaters.com
Counsel for Defendants
3Point14Consultants LLC, and
Key Tech Software Solutions LLC,
Rares Stelea, and Justin Journey

Simon Consulting, LLC
FTC v. ELH Consulting, LLC, et al.

FTC v. ELH Consulting, LLC, et al.**Receivership Termination Expenses - Budget vs. Actual****As of July 13, 2016**

	Estimate Per Receiver's Final Report	Actual	Difference	Notes
Receivership Assets as of 06/23/14	897,309.84	897,309.84	-	
Simon Consulting, LLC				
01/01/14-06/19/14	(61,600.83)	(49,456.59)	12,144.24	[1]
Est. Fees to Close Receivership	(8,000.00)	(8,000.00)	-	
Additional Fees Incurred	-	(7,961.21)	(7,953.21)	[2]
Subtotal	(69,600.83)	(65,417.80)	4,191.03	
Guttilla Murphy Anderson, PC				
01/01/14-06/19/14	(7,637.42)	(7,637.42)	-	
Est. Fees to Close Receivership	(6,000.00)	(6,000.00)	-	
Subtotal	(13,637.42)	(13,637.42)	-	
Est. Record Storage Costs	(70.00)	(70.00)	-	
Est. Record Destruction Costs	(1,395.50)	(2,113.50)	(718.00)	[3]
Tax Return Preparation (2012-2013)	(5,300.00)	(4,710.00)	590.00	[3]
Est. Pre- Receivership Payroll Taxes	(64,580.96)	(56,599.58)	7,981.38	[3]
Interest Income	-	105.83	105.83	[3]
Bank Fees	-	(98.00)	(106.00)	[3]
Refund from IRS for Tax Return Request	-	100.00	100.00	[3]
Total	(154,584.71)	(142,440.47)	12,144.24	
Transfer to FTC	(742,725.13)	(754,869.37)	(12,144.24)	[1]
Cash Balance	-	-	-	

Notes:

- [1] The Receiver's final report erroneously listed fees totaling \$61,600.83 due to the Receiver for 01/01/14-06/19/14; however, the Receiver's invoice for the same period totaled only \$49,456.59 (See the Receiver's invoices attached at Exhibit "B" to the Petition for Order Closing the Receivership). Accordingly, the Receiver included the difference of \$12,144.24 (\$61,600.83 minus \$49,456.59) in the amount transferred to the FTC.
- [2] The Receiver budgeted \$8,000 to close the receivership but actually incurred fees and costs totaling \$17,300.50 from June 20, 2014, or the date of the Receiver's final invoice, through May 31, 2016. A significant portion of these fees resulted from the Receiver's preparation of the 2013 (Amended) and 2014 tax returns in-house. The tax accountant previously retained by the Receiver made errors on the original 2013 tax return and was unresponsive when the Receiver attempted to correct the 2013 returns and prepare the 2014 returns. Tax-related fees relate to approximately 80% of the additional fees incurred by the Receiver. The remaining fees relate to maintaining the receivership bank accounts and other receivership management tasks. With the FTC's approval, the remaining cash balance of \$7,953.21 was applied to the Receiver's final fees, and all remaining receivership fees and costs will be written off.
- [3] These amounts represent differences in the budgeted amounts pursuant to the Receiver's final report versus the actual amounts incurred.

Exhibit A